

REDACTED DRAFT – PUBLIC VERSION

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Item 52 ID 3956

RESOLUTION E-3889

December 16, 2004

R E S O L U T I O N

Resolution E-3889. Pacific Gas & Electric for approval of its 2003 quarterly short-term procurement transaction compliance filings demonstrating that power procurement activities during the record period January 1 through December 31, 2003 were in conformance with the guidelines set forth in its Commission-approved Short-Term Procurement Plan filed with the Commission on November 15, 2002.

By Advice Letters: (1) AL 2377-E, filed May 1, 2003; (2) AL 2402-E, filed July 15, 2003; (3) AL 2434-E, filed October 30, 2003; (4) AL 2469-E, filed January 30, 2003; and supplemental advice letter AL 2469-E-A, filed on March 16, 2004.

SUMMARY

This Resolution approves Pacific Gas & Electric Company's (PG&E) quarterly procurement transaction compliance filings covering the record period January 1 through December 31, 2003 and orders the disclosure of summary information reflecting those transactions.

Energy Division concludes that PG&E's procurement transactions are in compliance with its Commission-approved 2003 Short-Term Procurement Plan (2003 STTP). The focus of the Energy Division's review is on whether the utility's procurement activities are consistent with its procurement plan. Eligibility of procurement transactions for cost recovery is reviewed and determined in the Energy Resource Recovery Account (ERRA) proceeding.

Ordering Paragraph (OP) No. 8 of D.02-10-062 requires each of the three major electric utilities to file each quarter's procurement transactions that conform to its short-term procurement plan by advice letter following the close of the quarter.¹ The purpose of these compliance filings is to demonstrate that electric and natural gas procurement activities conducted during the record period conform to the guidelines set forth in the Commission-approved 2003 STTPs.²

PG&E requested that each of its quarterly compliance filings be effective on the same date that each filing was submitted.

The quarterly filings submitted by PG&E include confidential appendices intended to demonstrate its compliance with the 2003 STTP. PG&E submitted those appendices as Confidential Material protected by Section 583 of the Public Utilities Code, which prohibits disclosure of confidential public utility information except by Commission order or in the course of a hearing or proceeding.

This resolution approves Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-A effective today and orders the disclosure of summary information relating to those transactions by authorizing publication of the unredacted resolution. Accordingly, all text in this resolution which appears on pages 7 through 18 plus portions of pages 19-21 in the unredacted copy, or which is

¹ OP No.8 of D.02-12-062 originally required the utilities to file the compliance advice letters within 15 days of the end of the quarter. On September 23, 2003, the Commission's Executive Director granted a joint request by PG&E and San Diego Gas & Electric Co. to extend the due date of the third quarter filing to October 30 (i.e., 30 days from close of the quarter). In D.03-12-062, the Commission revised the compliance filing requirement to within 30 days of the end of the quarter for all subsequent quarterly compliance filings (see OP No. 19).

² Natural gas procurement and gas risk management activities covered by the STTPs are aimed at supporting electricity generation from Utility Retained Generation, Qualifying Facilities contracts, and new and existing power purchase contracts. Gas supply procurement and management conducted by utilities for the California Department of Water Resources' long-term power purchase contracts (i.e., contracts with tolling provisions) are not covered by the STTPs, but rather by separate Gas Supply Plans.

marked “[REDACTED]” in the redacted copy, should be made public via posting on the PUC’s website upon Commission approval of this resolution.

BACKGROUND

Ordering Paragraph No. 8 of D.02-10-062 orders the three major electric utilities to file quarterly compliance advice letters following the close of each quarter detailing all procurement transactions executed in compliance with their Commission-approved 2003 Short-Term Procurement Plans.

On October 29, 2001, the Commission issued R.01-10-024, *Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development*. R.01-10-024 was issued to: (1) establish the regulatory framework under which the three IOUs shall resume power procurement responsibilities by January 1, 2003 (in lieu of the California Department of Water and Power); and (2) comply with Public Utilities Code Section 701.3, which requires that renewable resources be included in the mix of new generation facilities serving the state.

D.02-10-062, an Interim Opinion in R.01-10-024, approved the utilities’ 2003 STPPs and ordered certain modifications to be reflected in an updated procurement plan filing. As part of the approval of the STPPs granted in D.02-10-062, the Commission authorized the utilities to use a range of procurement processes and products, and established the Energy Resource Recovery Account for purposes of ensuring timely cost recovery of procurement-related costs.

Conclusion of Law (COL) No. 7 outlined the quarterly compliance filing process as follows:

“The utilities should file each quarter’s procurement transactions that conform to the approved plan by advice letter. The advice letter should contain all information in the adopted master data request at Appendix B. The Commission’s Energy Division should review the transactions to ensure [that] the prices, terms, types of products, and quantities purchased of each product conform to the approved plan. Consistent with [Assembly Bill] 57, any transaction submitted by advice letter that is found to not

comport with the adopted procurement plan may be subject to further review.”

For any procurement transactions that do not comport with an adopted STPP, D.02-10-062 instructed the utility to present such transactions for Commission review by an expedited application process set forth in Appendix C of the decision. It should be noted that cost recovery eligibility of the procurement transactions is not assessed as part of the quarterly compliance filing review process. Instead, cost recovery eligibility is conducted in each utility’s respective ERRA proceeding (See PG&E application A.03-08-004).

In D.02-12-074, the Commission approved the utilities’ modified STPPs and each utility commenced procurement activities under the authority of their respective STPPs. In accordance with Commission directive stated in OP No. 8 of D.02-10-062, PG&E filed four quarterly advice letters covering its procurement activities during calendar year 2003.

NOTICE

Notice of Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-A was made by publication in the Commission’s Daily Calendar. PG&E states that copies of the Advice Letters were mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

PG&E Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-A were not protested.

DISCUSSION

Energy Division’s review of PG&E’s quarterly compliance advice letters evaluates whether PG&E’s procurement activities during the record period comply with the utility’s approved 2003 STPP. The Commission separately reviews cost recovery of these transactions in the ERRA proceeding.

As required by D.02-10-062, Appendix B, Adopted Master Data Request for Quarterly Advice Letters, PG&E is required to file specific information in its quarterly compliance filing.³ PG&E's response to each Master Data Request item was filed as Confidential Protected Material under PU Code Section 583 and pursuant to the May 30, 2003 Modified Protective Order in R.01-10-024. This resolution, including the tables, graphs and narratives presented below, is based entirely on data submitted by PG&E as protected by Section 583.

Notwithstanding PG&E's claim of confidentiality over this data, the Energy Division recommends that the Commission make public all of the information presented in this resolution. By sunshining this data, the Commission will make plain to the public at large the bases for Commission decision-making.

In making this recommendation, the Energy Division recognizes the tradeoff the Commission faces as it balances the competing interests of (i) keeping confidential certain information which, if released, could reveal PG&E's procurement strategy and trading practices, thereby placing it at a competitive disadvantage in energy markets for future transactions, to the detriment of California ratepayers and (ii) allowing members of the public to review the Commission's oversight of energy procurement.⁴ Over a year has elapsed since PG&E submitted the confidential data, so its current value for future transactions is limited. Moreover, the Energy Division has aggregated the most sensitive transaction data by quarterly time periods. The Energy Division therefore believes that the information it seeks to make public would not compromise PG&E's power procurement trading strategies and practices. Disclosure of

³ The caption for Appendix B to D.02-10-062 incorrectly referenced the compliance filings as a monthly advice letter. Appendix B was subsequently modified by D.03-06-076, Order Modifying Decisions 02-10-062 and 02-12-074 and Denying Rehearing, to correct the Appendix B caption to reflect a quarterly advice letter filing schedule.

⁴ Consistent with its obligations under Section 454.5(g) of the Public Utilities Code, the Commission implemented procedures that require utilities to disclose market sensitive information related to resource procurement to parties who sign a confidentiality agreement limiting use and disclosure of such information. Administrative Law Judge Ruling Regarding Confidential Information and Effective Public Participation, April 4, 2003 Ruling in R.01-10-024. The aggregated information released today can be examined by anyone without signing a confidentiality agreement.

information submitted pursuant to Section 583 is therefore warranted in order to further the Commission's responsibility to engage in open decision making.

The confidential protected material presented below (which includes information concerning transaction processes, product types, purchase and sales volumes, price ranges, system conditions and procurement needs, and counterparties) is redacted in the public version of this resolution. The Energy Division recommends that the Commission make that information public by authorizing publication of the unredacted resolution. Accordingly, all text in this resolution which appears on pages 7 through 18 plus portions of pages 19-21 in the unredacted copy, or which is marked "[REDACTED]" in the redacted copy, should be made public via posting on the PUC's website upon Commission approval of this resolution.

During the First Quarter of 2003, [REDACTED]

January

[REDACTED]

February

[REDACTED]

March

[REDACTED]

Table 1. First Quarter 2003 Procurement Transactions by Type

Transaction Type	Number of Transactions
[REDACTED]	[REDACTED]
“	“
“	“
“	“
“	“
“	“

Note: This table does not reflect ISO real-time imbalance and supplemental energy transactions. Transactions include both purchases and sales.

**PG&E Q1 2003 Purchases
by Product Term as Percent of Total Purchase Volume**

[REDACTED]

**PG&E Q1 2003 Sales
by Product Term as Percent of Total Sales Volume**

[REDACTED]

Q1 2003 PG&E Electric Purchases and Sales: Price Histogram

[REDACTED]

During the Second Quarter of 2003, [REDACTED]

April

[REDACTED]

May

[REDACTED]

June

[REDACTED]

Table 2. Second Quarter 2003 Procurement Transactions by Type

Transaction Type	Number of Transactions
[REDACTED]	[REDACTED]
“	“
“	“
“	“
“	“

**PG&E Q2 2003 Purchases
by Product Term as Percent of Total Purchase Volume**

[REDACTED]

**PG&E Q2 2003 Sales
by Product Term as Percent of Total Sales Volume**

[REDACTED]

Q2 2003 PG&E Electric Purchases and Sales: Price Histogram

[REDACTED]

During the Third Quarter of 2003, [REDACTED]

July

[REDACTED]

August

[REDACTED]

September

[REDACTED]

Table 3. Third Quarter 2003 Procurement Transactions by Type

Transaction Type	Number of Transactions
[REDACTED]	[REDACTED]
“	“
“	“
“	“
“	“

**PG&E Q3 2003 Purchases
by Product Term as Percent of Total Purchase Volume**

[REDACTED]

**PG&E Q3 2003 Sales
by Product Term as Percent of Total Sales Volume**

[REDACTED]

Q3 2003 PG&E Electric Purchases and Sales: Price Histogram

[REDACTED]

During the Fourth Quarter of 2003, [REDACTED]

October

[REDACTED]

November

[REDACTED]

December

[REDACTED]

Table 4. Fourth Quarter 2003 Procurement Transactions by Type

Transaction Type	Number of Transactions
[REDACTED]	[REDACTED]
“	“
“	“
“	“
“	“

**PG&E Q4 2003 Purchases
by Product Term as Percent of Total Purchase Volume**

[REDACTED]

**PG&E Q4 2003 Sales
by Product Term as Percent of Total Sales Volume**

[REDACTED]

Q4 2003 PG&E Electric Purchases and Sales: Price Histogram

[REDACTED]

PG&E Transacted for Various Commission-Approved Products During 2003.

Each of these product types is included in PG&E's approved 2003-STPP:

- Hour Ahead electricity purchases and sales;
- Day Ahead electricity purchases and sales;
- Balance of Week electricity sales;
- Balance of Month electricity purchases and sales;
- Term (term greater than 27 days) electricity purchases and sales;
- Purchases and sales of ISO real-time imbalance energy and ancillary services
- Locational Swaps
- Heat Rate Option Exchanges
- Fixed Price Call Options
- Full Requirements Gas Services

During 2003, PG&E Transacted (encompassing purchases and sales) with [REDACTED] Counterparties for Electricity Products.

The counterparties are listed below.

[REDACTED]

PG&E Procurement Focused on [REDACTED] Products During 2003

[REDACTED]

Prices that PG&E Paid for Products in 2003 Were Consistent with Price Forecasts.

Each month PG&E provides Energy Division with price forecast data for gas and electricity. The price forecast data covers a rolling 12-month period. PG&E's actual procurement costs for 2003 appear to be consistent with the price forecast data for the reporting period.

During 2003, PG&E Employed Procurement Processes That Were Consistent with its 2003 STPP.

A review of PG&E's compliance filings demonstrates that PG&E's transactions were completed using procurement processes involving brokers, exchanges,

negotiated bilaterals, Requests for Offers, and the ISO. These processes are consistent with PG&E's approved 2003-STPP.

PG&E Did Not Violate the Commission's Affiliate Transaction Restriction

A review of the approximately [REDACTED] transactions entered into by PG&E during 2003 shows that the company did not transact with affiliates.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, a redacted version of this draft resolution was mailed to parties in R.04-04-003 and an unredacted version was distributed to PG&E's Procurement Review Group on October 7, 2004 for comments, and will be placed on the Commission's agenda no earlier than 30 days from today. Comments are due on November 1, 2004. Reply comments are due on November 8, 2004.

FINDINGS

1. OP No. 8 of D.02-10-062 requires each of the three major electric utilities to file each quarter's procurement transactions that conform to its short-term procurement plan by advice letter following the close of the quarter. The purpose of these compliance filings is to demonstrate that electric and natural gas procurement activities conducted during the record period conform to the guidelines set forth in the Commission-approved 2003 STTPs.
2. PG&E filed the following Advice Letters in connection with its quarterly procurement transaction compliance showing: (1) AL 2377-E, filed May 1, 2003; (2) AL 2402-E, filed July 15, 2003; (3) AL 2434-E, filed October 30, 2003; (4) AL 2469-E, filed January 30, 2003; and supplemental advice letter AL 2469-E-A, filed on March 16, 2004.

3. PG&E submitted the Appendices to Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-pursuant to Section 583 of the Public Utilities Code.
4. Both Public Utilities Code Section 583 and General Order 66-C limit disclosure of confidential utility data in the absence of formal action by the Commission or disclosure at a formal hearing.
5. Neither Public Utilities Code Section 583 nor General Order 66-C creates for the utility a privilege of nondisclosure by the Commission.
6. Over a year has elapsed since PG&E submitted the confidential data, so its current value for future transactions is limited.
7. The Energy Division has aggregated the most sensitive transaction data by quarterly time periods.
8. Release in aggregate form of the confidential data submitted by PG&E would not compromise PG&E's power procurement trading strategies and practices.
9. The public's interest in the ability to review the Commission's oversight of energy procurement outweighs the potential harm to PG&E's procurement strategy that might result from the release of the aggregate data prepared by the Energy Division.
10. Advice Letters 2377-E, 2402-E, 2434-E, 2469-E, and 2469-E-A were not protested.
11. Energy Division's review of PG&E's quarterly procurement compliance advice letters evaluates whether PG&E's procurement activities during the record period comply with the utility's approved 2003 STPP. The Commission separately reviews cost recovery for these transactions in the ERRA proceeding.
12. D.02-10-062, COL No. 7 stated that the "The Commission's Energy Division should review the transactions to ensure the prices, terms, types of products, and quantities purchased of each product conform to the approved plan. Consistent with [Assembly Bill] 57, any transaction submitted by advice letter

that is found to not comport with the adopted procurement plan may be subject to further review.”

THEREFORE IT IS ORDERED THAT:

1. PG&E’s request that its 2003 quarterly procurement transaction compliance filings be effective is approved.
2. The unredacted version of this resolution shall be posted on the Commission’s website.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 16, 2004; the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director